

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP

2 Diane M. Doolittle (CA Bar No. 142046)
dianedoolittle@quinnemanuel.com
3 555 Twin Dolphin Drive, 5th Floor
Redwood Shores, CA 94065
4 Telephone: (650) 801-5000
Facsimile: (650) 801-5100

Andrew H. Schapiro (admitted *pro hac vice*)
andrewschapiro@quinnemanuel.com
191 N. Wacker Drive, Suite 2700
Chicago, IL 60606
Telephone: (312) 705-7400
Facsimile: (312) 705-7401

6 Stephen A. Broome (CA Bar No. 314605)
stephenbroome@quinnemanuel.com
7 Viola Trebicka (CA Bar No. 269526)
violatrebicka@quinnemanuel.com
8 865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017
9 Telephone: (213) 443-3000
10 Facsimile: (213) 443-3100

Josef Ansorge (admitted *pro hac vice*)
josefansorge@quinnemanuel.com
1300 I. Street, N.W., Suite 900
Washington, D.C. 20005
Telephone: 202-538-8000
Facsimile: 202-538-8100

11 Jonathan Tse (CA Bar No. 305468)
12 jonathantse@quinnemanuel.com
50 California Street, 22nd Floor
13 San Francisco, CA 94111
14 Telephone: (415) 875-6600
Facsimile: (415) 875-6700

Jomaire A. Crawford (admitted *pro hac vice*)
jomairecrawford@quinnemanuel.com
51 Madison Avenue, 22nd Floor
New York, NY 10010
Telephone: (212) 849-7000
Facsimile: (212) 849-7100

15 *Attorneys for Defendant Google LLC*

16
17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

19 CHASOM BROWN, WILLIAM BYATT,
20 JEREMY DAVIS, CHRISTOPHER
CASTILLO, and MONIQUE TRUJILLO,
21 individually and on behalf of all similarly
situated,

22 Plaintiffs,

23 v.

24 GOOGLE LLC,
25 Defendant.

26 Case No. 4:20-cv-03664-YGR-SVK

27
**GOOGLE LLC'S ADMINISTRATIVE
MOTION TO SEAL PORTIONS OF
JOINT SUBMISSION IN RESPONSE TO
DKT. 447-1 RE PLAINTIFFS' REQUEST
FOR IN CAMERA SUBMISSION**

28 Judge: Hon. Susan van Keulen, USMJ

1 **I. INTRODUCTION**

2 Google respectfully seeks to seal portions of the parties' Joint Submission in Response to Dkt.
 3 447-1 Re: Plaintiffs' Request for In Camera Submission ("Joint Submission"), which contain
 4 Google's confidential and proprietary information regarding highly sensitive features of Google's
 5 internal systems and operations that Google does not share publicly, including: the various types of
 6 Google's internal data signals and logs and their proprietary functionalities. This information is highly
 7 confidential and should be protected.

8 This Administrative Motion pertains to the following information contained in the Joint
 9 Submission:

Document	Portions to be Filed Under Seal	Basis for Sealing
Joint Submission	Portions highlighted in yellow at: 2:4, 2:22, 3:4	The information requested to be sealed contains Google's highly confidential and proprietary information regarding highly sensitive features of Google's internal systems and operations, including various types of Google's internal data signals and logs and their proprietary functionalities, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google's competitors. Such confidential and proprietary information reveals Google's internal strategies, system designs, and business practices for operating and maintaining many of its important services, and falls within the protected scope of the Protective Order entered in this action. <i>See</i> Dkt. 81 at 2-3. Public disclosure of such confidential and proprietary information could affect Google's competitive standing as competitors may alter their systems and practices relating to competing products. It may also place Google at an increased risk of cybersecurity threats, as third parties may seek to use the information to compromise Google's internal practices relating to competing products.

1 **II. LEGAL STANDARD**

2 The common law right of public access to judicial records in a civil case is not a constitutional
 3 right and it is “not absolute.” *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978)
 4 (noting that the “right to inspect and copy judicial records is not absolute” and that “courts have
 5 refused to permit their files to serve as reservoirs of . . . sources of business information that might
 6 harm a litigant’s competitive standing”). Sealing is appropriate when the information at issue
 7 constitutes “competitively sensitive information,” such as “confidential research, development, or
 8 commercial information.” *France Telecom S.A. v. Marvell Semiconductor Inc.*, 2014 WL 4965995, at
 9 *4 (N.D. Cal. Oct. 3, 2014); *see also Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir.
 10 2002) (acknowledging courts’ “broad latitude” to “prevent disclosure of materials for many types of
 11 information, including, but not limited to, trade secrets or other confidential research, development, or
 12 commercial information”).

13 **III. THE ABOVE IDENTIFIED MATERIALS EASILY MEET THE “GOOD CAUSE”
 14 STANDARD AND SHOULD ALL BE SEALED**

15 Courts have repeatedly found it appropriate to seal documents that contain “business
 16 information that might harm a litigant’s competitive standing.” *Nixon*, 435 U.S. at 589-99. Good
 17 cause to seal is shown when a party seeks to seal materials that “contain[] confidential information
 18 about the operation of [the party’s] products and that public disclosure could harm [the party] by
 19 disclosing confidential technical information.” *Digital Reg. of Texas, LLC v. Adobe Sys., Inc.*, 2014
 20 WL 6986068, at *1 (N.D. Cal. Dec. 10, 2014). Materials that could harm a litigant’s competitive
 21 standing may be sealed even under the “compelling reasons” standard. *See e.g., Icon-IP Pty Ltd. v.*
 22 *Specialized Bicycle Components, Inc.*, 2015 WL 984121, at *2 (N.D. Cal. Mar. 4, 2015) (information
 23 “is appropriately sealable under the ‘compelling reasons’ standard where that information could be
 24 used to the company’s competitive disadvantage”) (citation omitted).

25 The identified portions of the Joint Submission all comprise confidential and proprietary
 26 information as the materials involve highly sensitive features of Google’s internal systems and
 27 operations that Google does not share publicly. Specifically, this information provides details related
 28 to various types of Google’s internal data signals and logs and their proprietary functionalities. Such

1 information reveals Google’s internal strategies, system designs, and business practices for operating
 2 and maintaining many of its important services while complying with legal and privacy obligations.

3 Public disclosure of the above-listed information would harm Google’s competitive standing it
 4 has earned through years of innovation and careful deliberation, by revealing sensitive aspects of
 5 Google’s proprietary systems, strategies, designs, and practices to Google’s competitors. That alone is
 6 a proper basis to seal such information. *See, e.g., Free Range Content, Inc. v. Google Inc.*, No. 14-cv-
 7 02329-BLF, Dkt. No. 192, at 3-9 (N.D. Cal. May 3, 2017) (granting Google’s motion to seal certain
 8 sensitive business information related to Google’s processes and policies to ensure the integrity and
 9 security of a different advertising system); *Huawei Techs., Co. v. Samsung Elecs. Co.*, No. 3:16-cv-
 10 02787-WHO, Dkt. No. 446, at 19 (N.D. Cal. Jan. 30, 2019) (sealing confidential sales data because
 11 “disclosure would harm their competitive standing by giving competitors insight they do not have”);
 12 *Trotsky v. Travelers Indem. Co.*, 2013 WL 12116153, at *8 (W.D. Wash. May 8, 2013) (granting
 13 motion to seal as to “internal research results that disclose statistical coding that is not publically
 14 available”).

15 Moreover, if publicly disclosed, malicious actors may use such information to seek to
 16 compromise Google’s internal systems and data structures. Google would be placed at an increased
 17 risk of cyber security threats, and data related to its users could similarly be at risk. *See, e.g., In re*
 18 *Google Inc. Gmail Litig.*, 2013 WL 5366963, at *3 (N.D. Cal. Sept. 25, 2013) (sealing “material
 19 concern[ing] how users’ interactions with the Gmail system affects how messages are transmitted”
 20 because if made public, it “could lead to a breach in the security of the Gmail system”). The security
 21 threat is an additional reason for this Court to seal the identified information.

22 The information Google seeks to redact, including internal projects and their proprietary
 23 functions, is the minimal amount of information needed to protect its internal systems and operations
 24 from being exposed to not only its competitors but also to nefarious actors who may improperly seek
 25 access to and disrupt these systems and operations. The “good cause” rather than the “compelling
 26 reasons” standard should apply but under either standard, Google’s sealing request is warranted.

27

28

1 **IV. CONCLUSION**

2 For the foregoing reasons, Google respectfully requests that the Court seal the identified
3 portions of the Joint Submission.

4 DATED: March 4, 2022

5 QUINN EMANUEL URQUHART &
6 SULLIVAN, LLP

7 By /s/ Andrew H. Schapiro

8 Andrew H. Schapiro (admitted pro hac vice)
9 andrewschapiro@quinnmanuel.com
10 191 N. Wacker Drive, Suite 2700
11 Chicago, IL 60606
12 Telephone: (312) 705-7400
13 Facsimile: (312) 705-7401

14 Stephen A. Broome (CA Bar No. 314605)
15 sb@quinnmanuel.com
16 Viola Trebicka (CA Bar No. 269526)
17 violatrebicka@quinnmanuel.com
18 865 S. Figueroa Street, 10th Floor
19 Los Angeles, CA 90017
20 Telephone: (213) 443-3000
21 Facsimile: (213) 443-3100

22 Diane M. Doolittle (CA Bar No. 142046)
23 dianedoolittle@quinnmanuel.com
24 555 Twin Dolphin Drive, 5th Floor
25 Redwood Shores, CA 94065
26 Telephone: (650) 801-5000
27 Facsimile: (650) 801-5100

28 Jomaire Crawford (admitted pro hac vice)
29 jomairecrawford@quinnmanuel.com
30 51 Madison Avenue, 22nd Floor
31 New York, NY 10010
32 Telephone: (212) 849-7000
33 Facsimile: (212) 849-7100

34 Josef Ansorge (admitted pro hac vice)
35 josefansorge@quinnmanuel.com
36 1300 I Street NW, Suite 900
37 Washington D.C., 20005
38 Telephone: (202) 538-8000
39 Facsimile: (202) 538-8100

40 Jonathan Tse (CA Bar No. 305468)
41 jonathantse@quinnmanuel.com

1 50 California Street, 22nd Floor
2 San Francisco, CA 94111
3 Telephone: (415) 875-6600
4 Facsimile: (415) 875-6700

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Attorneys for Defendant Google LLC